

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES**

In re: Timothy Sweeney

Petition No. 2000-0919-042-005

CONSENT ORDER

WHEREAS, Timothy Sweeney, of Waretown, NJ (hereinafter "respondent") has been issued license number 000365 to practice as an asbestos consultant - project monitor by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 400a of the General Statutes of Connecticut, as amended. Said license lapsed due to non-renewal, on or about July 31, 2000; and,

WHEREAS, the Department alleges that:

1. In or about the fall of 1999, respondent was a licensed asbestos consultant – project monitor for an asbestos abatement project at 260 Constitution Plaza, Hartford, CT (hereinafter “the property”). The asbestos abatement project involved the removal of asbestos containing materials in connection with the renovation of a 25,000 square foot vacant office on the first floor of the building on the property.
2. Respondent was at the property from on or about October 20, 1999 through December 6, 1999 performing asbestos consultation services that involved monitoring the activities of Spirco Services, Inc., the asbestos contractor of record for the project.
3. On or about December 2, 1999, Department investigators observed, during a compliance inspection, that respondent failed to ensure that there was no visible residue in the work area prior to conducting post abatement reoccupancy air sampling. Department

investigators observed visible debris and residue in a soffit space along the west wall of the work area and in approximately ten (10) other locations in the work area randomly checked by the investigators.

4. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a and §§19a-332 and 19a-332a of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-2, 19a-332a-5(g), 19a-332a-12(b), 20-440-1, 20-440-3(a) and/or 20-440-3(b)(4)(A) of the Regulations of Connecticut State Agencies.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Department, this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14, 19a-14a and Chapter 400a of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-14a, 19a-17 and Chapter 400a of the General Statutes of Connecticut, taken in conjunction with §20-440-6(b) of the Regulations of Connecticut State Agencies, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter and any right to a hearing he may have regarding any request that his license be reinstated or that a new license be issued. Respondent also waives any right that he may have to appeal or otherwise challenge the disposition of any such request.
2. Respondent shall pay a civil penalty of two hundred and seventy-five dollars (\$275.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.
3. Respondent understands and voluntarily agrees that if he seeks a new license or to reinstate license number 000365 at any time in the future, respondent's license shall be issued or reinstated subject to the following conditions:

- a. Respondent shall provide his employer with a copy of the conditions within fifteen (15) days of the date of the issuance of any license to practice as an asbestos consultant – project monitor, or within fifteen (15) days of commencement of employment with a new employer.
- b. Respondent's employer shall furnish written confirmation to the Department of receipt of a copy of the conditions within fifteen days of receipt.
- c. Respondent's license shall be placed on probation for a period of sixty (60) days. During said period of probation, respondent shall furnish, or cause its employer to furnish, the Department on a weekly basis, by no later than 12:00 p.m. on each Friday, a work schedule for respondent for the following week. Such schedule shall indicate the date, time period (if less than a full day) and address for each project where respondent will be providing asbestos consultation services as a project monitor in the State of Connecticut during such week. In the event that respondent is not scheduled to provide asbestos consultation services as a project monitor in the State of Connecticut during a particular week, then respondent shall furnish the Department with a signed statement so indicating, by the 12:00 p.m. deadline specified above. Respondent shall notify the Department, not less than twenty-four (24) hours in advance, of any changes to his weekly work schedule, except for emergencies. For the purposes of this paragraph 3c, "asbestos consultation services" shall have the meaning given in Section 20-440-1(10) of the Regulations of Connecticut State Agencies and "project monitor" shall have the meaning given in Section 20-440-1(29) of the Regulations of Connecticut State Agencies. For the purposes of this paragraph 3c, "emergencies" shall mean those projects where respondent and/or his employer does not have at least twenty-four (24) hours

advance notice of the need for respondent's asbestos consultation services as a project monitor for any project.

- d. All correspondence and reports shall be sent to the address specified by the Department at the time the license is issued or reinstated.
4. Notwithstanding anything contained in paragraph 3 above, respondent understands and agrees that the Department shall have the absolute discretion as to whether any application for a new license or to reinstate license number 000365 shall be issued or reinstated and, if so, whether said license shall be subject to conditions in addition to those specified in paragraph 3 above, in the event that the Department makes any of the determinations provided for in Section 19a-14(a)(6) of the Connecticut General Statutes, as amended.
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
8. This Consent Order is effective on the date this Consent Order is accepted and ordered by the Department.
9. Respondent agrees this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which his compliance with this Consent Order or with Chapters 400a or 3681 of the General Statutes of Connecticut, as amended, is at issue.
10. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject

to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.

11. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
12. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
13. Respondent understands that he has the right to consult with an attorney prior to signing this document.

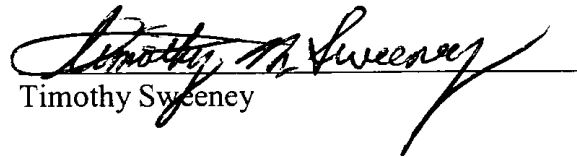
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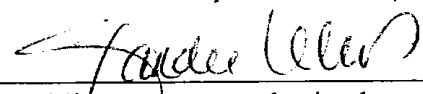
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I, Timothy Sweeney, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

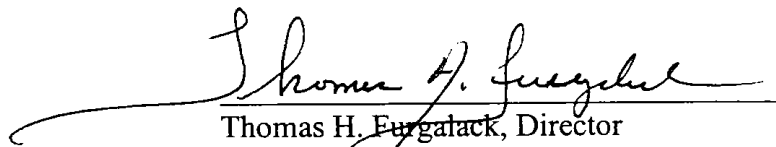
SANDRA GLORIAS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 28, 2002


Timothy Sweeney

Subscribed and sworn to before me this 21 day of May 2001.


Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 24th day of May 2001, it is hereby accepted.


Thomas H. Fargalack, Director
Division of Environmental Health

s:llf/sweeney/co
4/01